

## UNITED STATES DISTRICT COURT

Eastern

District of

Pennsylvania

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

JOSEPH J. KUBACKI

Case Number:

DPAE2:11CR000052-001

USM Number:

66910-066

Judson Aaron, Esq.

Defendant's Attorney

## THE DEFENDANT:

pleaded guilty to count(s) \_\_\_\_\_

☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.☒ was found guilty on count(s) 1s through 150s.  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18:1347	Health Care Fraud.	October 2007	1s
18:1347	Health Care Fraud	October 2007	2s
18:1347	Health Care Fraud.	October 2007	3s
18:1347	Health care Fraud.	October 2007	4s
18:1347	Health Care Fraud.	October 2007	5s
18:1347	Health Care Fraud.	October 2007	6s

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on count(s) \_\_\_\_\_☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

3/29/12 mailed

A. Kyriakidis, AUSA

J. Aaron, Esq.

U.S. Marshal

U.S. Probation

U.S. Pretrial

FLU

Fiscal

March 29, 2012

Date of Imposition of Judgment



Signature of Judge

Eduardo C. Robreno, United States District Judge

Name and Title of Judge

3/29/12.

Date

DEFENDANT: JOSEPH J. KUBACKI  
CASE NUMBER: DP AE2:11CR000052-001

### ADDITIONAL COUNTS OF CONVICTION

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18: 1347	Health Care Fraud.	October 2007	7s
18: 1347	Health Care Fraud.	October 2007	8s
18: 1347	Health Care Fraud.	October 2007	9s
18: 1347	Health Care Fraud.	October 2007	10s
18: 1347	Health Care Fraud.	October 2007	11s
18: 1347	Health Care Fraud.	October 2007	12s
18: 1347	Health Care Fraud.	October 2007	13s
18: 1347	Health Care Fraud.	October 2007	14s
18: 1347	Health Care Fraud.	October 2007	15s
18: 1347	Health Care Fraud.	October 2007	16s
18: 1347	Health Care Fraud.	October 2007	17s
18: 1347	Health Care Fraud.	October 2007	18s
18: 1347	Health Care Fraud.	October 2007	19s
18: 1347	Health Care Fraud.	October 2007	20s
18: 1347	Health Care Fraud.	October 2007	21s
18: 1347	Health Care Fraud.	October 2007	22s
18: 1347	Health Care Fraud.	October 2007	23s
18: 1347	Health Care Fraud.	October 2007	24s
18: 1347	Health Care Fraud.	October 2007	25s
18: 1347	Health Care Fraud.	October 2007	26s
18: 1347	Health Care Fraud.	October 2007	27s
18: 1347	Health Care Fraud.	October 2007	28s
18: 1347	Health Care Fraud.	October 2007	29s
18: 1347	Health Care Fraud.	October 2007	30s
18: 1347	Health Care Fraud.	October 2007	31s
18: 1347	Health Care Fraud.	October 2007	32s
18: 1347	Health Care Fraud.	October 2007	33s
18: 1347	Health Care Fraud.	October 2007	34s
18: 1347	Health Care Fraud.	October 2007	35s
18: 1347	Health Care Fraud.	October 2007	36s
18: 1347	Health Care Fraud.	October 2007	37s
18: 1347	Health Care Fraud.	October 2007	38s
18: 1347	Health Care Fraud.	October 2007	39s
18: 1347	Health Care Fraud.	October 2007	40s
18: 1347	Health Care Fraud.	October 2007	41s
18: 1347	Health Care Fraud.	October 2007	42s
18: 1347	Health Care Fraud.	October 2007	43s
18: 1347	Health Care Fraud.	October 2007	44s
18: 1347	Health Care Fraud.	October 2007	45s
18: 1347	Health Care Fraud.	October 2007	46s
18: 1347	Health Care Fraud.	October 2007	47s
18: 1347	Health Care Fraud.	October 2007	48s
18: 1347	Health Care Fraud.	October 2007	49s
18: 1347	Health Care Fraud.	October 2007	50s
18: 1347	Health Care Fraud.	October 2007	51s

DEFENDANT: JOSEPH J. KUBACKI  
CASE NUMBER: DPAE2:11CR000052-001

### ADDITIONAL COUNTS OF CONVICTION

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18:1347	Health Care Fraud.	October 2007	52s
18:1347	Health Care Fraud.	October 2007	53s
18:1347	Health Care Fraud.	October 2007	54s
18:1347	Health Care Fraud.	October 2007	55s
18:1347	Health Care Fraud.	October 2007	56s
18:1347	Health Care Fraud.	October 2007	57s
18:1347	Health Care Fraud.	October 2007	58s
18:1347	Health Care Fraud.	October 2007	59s
18:1347	Health Care Fraud.	October 2007	60s
18:1347	Health Care Fraud.	October 2007	61s
18:1347	Health Care Fraud.	October 2007	62s
18:1347	Health Care Fraud.	October 2007	63s
18:1347	Health Care Fraud.	October 2007	64s
18:1347	Health Care Fraud.	October 2007	65s
18:1347	Health Care Fraud.	October 2007	66s
18:1347	Health Care Fraud.	October 2007	67s
18:1347	Health Care Fraud.	October 2007	68s
18:1347	Health Care Fraud.	October 2007	69s
18:1347	Health Care Fraud.	October 2007	70s
18:1347	Health Care Fraud.	October 2007	71s
18:1347	Health Care Fraud.	October 2007	72s
18:1347	Health Care Fraud.	October 2007	73s
18: 1035	False statements in health care matters.	October 2007	74s
18: 1035	False statements in health care matters.	October 2007	75s
18: 1035	False statements in health care matters.	October 2007	76s
18: 1035	False statements in health care matters.	October 2007	77s
18: 1035	False statements in health care matters.	October 2007	78s
18: 1035	False statements in health care matters.	October 2007	79s
18: 1035	False statements in health care matters.	October 2007	80s
18: 1035	False statements in health care matters.	October 2007	81s
18: 1035	False statements in health care matters.	October 2007	82s
18: 1035	False statements in health care matters.	October 2007	83s
18: 1035	False statements in health care matters.	October 2007	84s
18: 1035	False statements in health care matters.	October 2007	85s
18: 1035	False statements in health care matters.	October 2007	86s
18: 1035	False statements in health care matters.	October 2007	87s
18: 1035	False statements in health care matters.	October 2007	88s
18: 1035	False statements in health care matters.	October 2007	89s
18: 1035	False statements in health care matters.	October 2007	90s
18: 1035	False statements in health care matters.	October 2007	91s
18: 1035	False statements in health care matters.	October 2007	92s
18: 1035	False statements in health care matters.	October 2007	93s
18: 1035	False statements in health care matters.	October 2007	94s
18: 1035	False statements in health care matters.	October 2007	95s
18: 1035	False statements in health care matters.	October 2007	96s

DEFENDANT: JOSEPH J. KUBACKI  
CASE NUMBER: DPAE2:11CR000052-001

### ADDITIONAL COUNTS OF CONVICTION

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18: 1035	False statements in health care matters.	October 2007	97s
18: 1035	False statements in health care matters.	October 2007	98s
18: 1035	False statements in health care matters.	October 2007	99s
18: 1035	False statements in health care matters.	October 2007	100s
18: 1035	False statements in health care matters.	October 2007	101s
18: 1035	False statements in health care matters.	October 2007	102s
18: 1035	False statements in health care matters.	October 2007	103s
18: 1035	False statements in health care matters.	October 2007	104s
18: 1035	False statements in health care matters.	October 2007	105s
18: 1035	False statements in health care matters.	October 2007	106s
18: 1035	False statements in health care matters.	October 2007	107s
18: 1035	False statements in health care matters.	October 2007	108s
18: 1035	False statements in health care matters.	October 2007	109s
18: 1035	False statements in health care matters.	October 2007	110s
18: 1035	False statements in health care matters.	October 2007	111s
18: 1035	False statements in health care matters.	October 2007	112s
18: 1035	False statements in health care matters.	October 2007	113s
18: 1035	False statements in health care matters.	October 2007	114s
18: 1035	False statements in health care matters.	October 2007	115s
18: 1035	False statements in health care matters.	October 2007	116s
18: 1035	False statements in health care matters.	October 2007	117s
18: 1035	False statements in health care matters.	October 2007	118s
18: 1035	False statements in health care matters.	October 2007	119s
18: 1035	False statements in health care matters.	October 2007	120s
18: 1035	False statements in health care matters.	October 2007	121s
18: 1035	False statements in health care matters.	October 2007	122s
18: 1035	False statements in health care matters.	October 2007	123s
18: 1035	False statements in health care matters.	October 2007	124s
18: 1035	False statements in health care matters.	October 2007	125s
18: 1035	False statements in health care matters.	October 2007	126s
18: 1035	False statements in health care matters.	October 2007	127s
18: 1035	False statements in health care matters.	October 2007	128s
18: 1035	False statements in health care matters.	October 2007	129s
18: 1035	False statements in health care matters.	October 2007	130s
18: 1035	False statements in health care matters.	October 2007	131s
18: 1035	False statements in health care matters.	October 2007	132s
18: 1035	False statements in health care matters.	October 2007	133s
18: 1035	False statements in health care matters.	October 2007	134s
18: 1035	False statements in health care matters.	October 2007	135s
18: 1035	False statements in health care matters.	October 2007	136s
18: 1035	False statements in health care matters.	October 2007	137s
18: 1035	False statements in health care matters.	October 2007	138s
18: 1035	False statements in health care matters.	October 2007	139s
18: 1035	False statements in health care matters.	October 2007	140s
18: 1035	False statements in health care matters.	October 2007	141s

DEFENDANT: JOSEPH J. KUBACKI  
CASE NUMBER: DPAE2:11CR000052-001

**ADDITIONAL COUNTS OF CONVICTION**

<b><u>Title &amp; Section</u></b>	<b><u>Nature of Offense</u></b>	<b><u>Offense Ended</u></b>	<b><u>Count</u></b>
18: 1035	False statements in health care matters.	October 2007	142s
18: 1035	False statements in health care matters.	October 2007	143s
18: 1035	False statements in health care matters.	October 2007	144s
18: 1035	False statements in health care matters.	October 2007	145s
18: 1035	False statements in health care matters.	October 2007	146s
18: 1343	Wire fraud.	October 2007	147s
18: 1343	Wire fraud.	October 2007	148s
18: 1343	Wire fraud.	October 2007	149s
18: 1343	Wire fraud.	October 2007	150s

DEFENDANT: JOSEPH J. KUBACKI  
CASE NUMBER: DPAE2:11CR000052-001

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

**87 MONTHS.** This term consists of 87 months on each of counts 1s through 73s, 60 months on each of counts 74s through 146s and a term of 87 months on each of counts 147s through 150s, all to be served concurrently, to produce a total term of 87 months.

The court makes the following recommendations to the Bureau of Prisons:

It is recommended that the defendant be designated to FPC Pensacola (Camp).

It is also recommended that the defendant be afforded the opportunity to participate in the RDAT program while incarcerated.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ a \_\_\_\_\_ ☐ a. ☐ p.m. on \_\_\_\_\_ .

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_ .

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

### RETURN

I have executed this judgment as follows:

Defendant delivered \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_ , with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_

DEPUTY UNITED STATES MARSHAL

DEFENDANT: JOSEPH J. KUBACKI  
CASE NUMBER: DPAE2:11CR000052-001

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

**3 years.** This term consists of 3 years on each of counts 1s through 150s, all such terms to run concurrently.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: JOSEPH J. KUBACKI  
CASE NUMBER: DPAE2:11CR000052-001

### ADDITIONAL SUPERVISED RELEASE TERMS

The defendant shall refrain from the use of alcohol and shall submit to testing to ensure compliance. It is further ordered that the defendant submit to evaluation and treatment as approved by the Court after receiving a recommendation by the U.S. Probation Office. The defendant shall abide by the rules of any program and remain in treatment until satisfactorily discharged with the approval of the U.S. Probation Office.

The defendant shall provide the U.S. Probation Office with full disclosure of his financial records to include yearly income tax returns upon the request of the U.S. Probation Office. The defendant shall cooperate with the probation officer in the investigation of his financial dealings and shall provide truthful monthly statements of his income.

The defendant is prohibited from incurring any new credit charges or opening additional lines of credit without the approval of the probation officer, unless the defendant is in compliance with a payment schedule for any fine or restitution obligation. The defendant shall not encumber or liquidate interest in any assets unless it is direct service of the fine or restitution obligation or otherwise has the express approval of the Court.

DEFENDANT: JOSEPH J. KUBACKI  
 CASE NUMBER: DP AE2:11CR000052-001

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 15,000.00	\$ 15,000.00	\$ 1,020,050.87

☐ The determination of restitution is deferred \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Payments should be made payable to Clerk, U.S. District Court			
Temple University Hospital c/o Beth C. Koob, Esq. Chief Counsel for Health Sciences Temple University 3509 Broad Street, 9th Floor Philadelphia, PA 19140	1,014,605.87	1,014,605.87	
An addendum listing all restitution victims for this amount has been provided the Financial Litigation Unit to assist in the payments to individual restitution victims.	5,445.00	5,445.00	

<b>TOTALS</b>	\$ <u>1020050.87</u>	\$ <u>1020050.87</u>
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☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: JOSEPH J. KUBACKI  
CASE NUMBER: DPAE2:11CR000052-001

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 1,050,050.87 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:  
The fine and restitution are due immediately and shall be paid in full within 30 days of sentencing.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.